

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS)
Plaintiff)
vi.) Civil Action: 04-30126-MAP
CARDIAC SCIENCE, INC., et. al.,)
Defendants)

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**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION FOR JOINDER UNDER
R. 19(a)(1) AND R. 19(a)(2)(ii) OF CIVIL PROCEDURE**

The Plaintiff, Donald C. Hutchins ("Hutchins") files this memorandum in support of the Plaintiff's Motion For Joinder of CPR Limited Partnership ("CPR L.P."), an Ohio limited partnership, to this Action under R. 19(a)(1) and R. (a)(2)(ii) of Civil Procedure.

I. SUMMARY OF POSITION

Exhibit A herein attached testifies to the fact that CPR Limited Partnership, ("CPR L.P.") was a party to an Asset Purchase Agreement with Cardiac Science, Inc. This Asset Purchase Agreement is central to the resolution of Civil Action: 04-30126-MAP.

II. ARGUMENT

The standard used to consider a request for joinder is found in Rule 19 of the Code of Civil Procedure. The tests are:

“(1) in the person’s absence complete relief cannot be accorded among the parties or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may (i) as a practical matter impair or impede the person’s ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest.”

Hutchins, Cardiac Science, The Compliant Corporation and other parties on motion to be joined meet the test that in absence of CPR Limited Partnership relief can not be accorded among the parties.

Cardiac Science, Hutchins, The Compliant Corporation and other parties on motion to be joined meet the test that in the absence of CPR Limited Partnership each will be subject to inconsistent obligations by reason of the claimed interest

III. CONCLUSION

For all of the foregoing reasons, the Plaintiff’s Motion to order CPR Limited Partnership be made a party to Civil Action: 04-30126-MAP should be granted.

The Plaintiff

Donald C. Hutchins, Pro Se



1047 Longmeadow Street
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(413) 567-0606

Dated: January 24, 2006

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS)
Plaintiff)
v.) Civil Action: 04-30126-MAP
CARDIAC SCIENCE, INC., et., al.,)
Defendants)

)

ORDER FOR JOINDER

The Court makes the following findings and orders that CPR Limited Partnership, c/o Calfee, Halter & Griswold LLP, 1400 McDonald Investment Center, 800 Superior Avenue, Cleveland, Ohio 44114-2688, Attn: Colleen Moran O'Neil, Esq., be joined as a Defendant to this action under Rule 19 (a)(1) and Rule 19(a)(2)(ii) of civil procedure and Local Rule 15.1.

The Court finds that without the joining of the CPR Limited Partnership, complete relief cannot be accorded among the parties and the absence of CPR Limited Partnership will leave any of the persons already parties subject to a substantial risk of incurring inconsistent obligations by reason of the claimed interest.

Justice of the United States District Court

Dated: _____